



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-0449]

RIN 1625-AA00

Safety Zone; Skagit River Bridge, Skagit River, Mount Vernon, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone around the Skagit River Bridge located in Mount Vernon, WA. This action is necessary to protect vessels and persons from dangers associated with the collapse of the Interstate 5 Skagit River Bridge and to ensure the safety of the emergency response, salvage, and construction crews on scene. The safety zone will prohibit any person or vessel from entering or remaining in the safety zone unless authorized by the Captain of the Port or his Designated Representative.

DATES: This rule will be enforced with actual notice from 12 a.m. on June 25, 2013, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This rule is effective in the Code of Federal Regulations from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], until 11:59 p.m. on November 10, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2012-0449]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail LTJG Nathaniel Clinger, Waterways Management Division, Coast Guard Sector Puget Sound; Coast Guard; telephone (206) 217-6045, e-mail SectorPugetSoundWWM@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5

U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable to do so. This safety zone is being issued in response to an emergency bridge collapse. Delayed promulgation may result in injury or damage to persons and vessels on the Skagit River, Mount Vernon, WA from the hazards created by the collapse of the bridge, including potential debris and ongoing emergency response operations.

Under 5 U.S.C. 553(d)(3), for the same reasons previously mentioned, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Delaying the effective date until 30 days after publication would be impracticable and contrary to the public interest, as it would eliminate the safety zone's effectiveness and usefulness in protecting persons, property, and the safe navigation of maritime traffic during the 30-day period.

B. Basis and Purpose

On May 23, 2013, at approximately 7 p.m. the Interstate 5 Skagit River Bridge collapsed. When Skagit County and Snohomish County responders arrived on scene they witnessed three partially

submerged automobiles and floating bridge debris in the Skagit River. Following the initial response and assessment of the bridge collapse, it was determined that the time to repair the bridge would exceed the timeline of the previously established safety zone. Due to ongoing salvage and restoration operations, which may include cranes and vessels utilizing dive teams, the Coast Guard will establish a safety zone to prevent navigation in areas that may contain debris and hazards relating to the Skagit Bridge collapse and ensure the safety of the maritime public and personnel involved in salvage, and restoration operations.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone encompassing all waters on the Skagit River, Mount Vernon, Washington enclosed by the follow points: 48° 26'41"N, 122° 20'35"W; thence north to 48° 26'46"N, 122° 20'35"W; thence east along the shoreline to 48° 26'44"N, 122° 20'20"W; thence south to 48° 26'41"N, 122° 20'20"W; thence west back to the point of origin.

Vessels wishing to enter the zone must request permission for entry by contacting the Joint Harbor Operations Center at 206-217-6001, or the on-scene patrol craft via VHF-FM CH 13. Once permission for entry is granted vessels must proceed at a minimum speed for safe navigation.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize

our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This rule is not a significant regulatory action as it is limited in size and duration.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the affected waterway during the period mentioned. This safety zone will not have a

significant economic impact on a substantial number of small entities because the zone established in this rule is limited in size, temporary in duration, and vessels may still transit the southern portion of the waterway.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an

expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a temporary safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination will be available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and Recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165 - REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

2. Add §165.T13-248 to read as follows:

§ 165.T13-248 Safety Zone; Skagit River Bridge, Mount Vernon, WA.

(a) Location. The following area is designated as a safety zone: All waters on the Skagit River, Mount Vernon, Washington enclosed by the follow points: 48° 26'41"N, 122° 20'35"W; thence north to 48° 26'46"N, 122° 20'35"W; thence east along the shoreline to 48° 26'44"N, 122° 20'20"W; thence south to 48° 26'41"N, 122° 20'20"W; thence west back to the point of origin.

(b) Regulations. In accordance with the general regulations in 33 CFR Part 165, Subpart C, vessels wishing to enter the zone must request permission for entry by contacting the Joint Harbor Operation Center at 206-217-6001 or the on-scene patrol craft on VHF-FM CH13. Once permission for entry is granted vessels must proceed at a minimum speed for safe navigation.

(c) This rule is effective from 12 a.m. on June 25, 2013, until 11:59 p.m. on November 10, 2013, unless cancelled sooner by the Captain of the Port.

Dated: June 25, 2013

S. J. Ferguson
Captain, U.S. Coast Guard
Captain of the Port, Puget Sound

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Date: 07/11/2013]